

Step 1. Determine the Offense Class for Each Felony Conviction

The appropriate offense class must be determined for each felony conviction.

Felony Offense Classes

Offense classes appear in the far left column of the Felony Punishment Chart (**Figure A**). Offenses are assigned to one of ten offense classes by statute: Class A, B1, B2, C, D, E, F, G, H or I. If the offense is a felony for which there is no classification in statute, it is a Class I felony. A sample of felony offenses classified under structured sentencing is shown in **Table 1**.

Case Law

- If the defendant's sentence depends upon the date that the offense occurred (and thus which sentencing law governs), the State bears the burden of proving the date of offense by substantial evidence if it seeks to apply the more severe provision.¹
- If the State elects to charge the defendant with a single offense based upon a series of actions that began before but concluded after October 1, 1994 (the effective date of the Structured Sentencing Act), the defendant is sentenced under Structured Sentencing.²

Conspiracy to Commit a Felony *G.S. 14-2.4*

General Rule

Unless a different classification is expressly stated in statute, a conspiracy to commit a felony is punishable under the next lower classification of the offense which the offender conspired to commit.

Exceptions

- Conspiracy to commit a Class A or Class B1 felony is a Class B2 felony.
- Conspiracy to commit a Class B2 felony is a Class C felony.
- Conspiracy to commit a Class I felony is a Class 1 misdemeanor.

Example: Common law robbery is a Class G felony. However, conspiracy to commit common law robbery is a Class H felony.

Attempt to Commit a Felony *G.S. 14-2.5*

General Rule

Unless a different classification is expressly stated in statute, an attempt to commit a felony is punishable under the next lower classification of the offense which the offender attempted to commit.

¹ *State v. Poston*, 162 N.C. App. 642, 591 S.E. 2d 898 (2004).

² *State v. Mullaney*, 129 N.C. App. 506, 500 S.E. 2d 112 (1998).